

Image 2834

PTO/SB/21 (02-04) (AW 02/2004)  
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<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>	Application Number	09/998,534
	Filing Date	November 28, 2001
	First Named Inventor	N. Nishiyama et al.
	Art Unit	2834
	Examiner Name	Burton S. Mullins
Total Number of Pages in This Submission	Attorney Docket No.	MAT-7941US1

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached  <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/Declaration(s)  <input type="checkbox"/> Extension of Time Request  <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Response to Missing Parts/ Incomplete Application  <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application  <input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group  <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences  <input type="checkbox"/> Appeal Communication to Group ( <b>Appeal Notice, Brief, Reply Brief</b> )  <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Status Letter  <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): copies of Notice of Abandonment and corrected drawings
<b>Remarks:</b>		

SIGNATURE OF APPLICANT, ATTORNEY OR AGENT			
Firm or Individual Name	Lawrence E. Ashery	Registration No. (Attorney/Agent)	34,515
Signature			
Date	February 19, 2004		

CERTIFICATE OF TRANSMISSION / MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this date:			
Typed or printed name	Danielle Murphy		
Signature		Date	February 19, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Office, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, ALEXANDRIA, VA 22313-1450.

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Application No. 09/998,534

MAT-7941US1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No: 09/998,534  
Applicants: Noriyoshi Nishiyama et al.  
Filed: November 28, 2001  
Title: COMPRESSOR USING A MOTOR  
TC/A.U.: 2834  
Examiner: Burton S. Mullins  
Confirmation No.: 6235  
Docket No.: MAT-7941US1

**PETITION UNDER 37 CFR § 1.181(A)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

S I R:

The above-identified application was abandoned as stated on the Notice of Abandonment (copy enclosed) for:

- Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTOL-37).
- No corrected drawings have been received.

However, on May 16, 2003 Applicants filed the required corrected drawings. A copy of the corrected drawings (as previously filed) are enclosed.

For the reasons set forth above, withdrawal of the holding of abandonment for the above-identified application is respectfully requested.

Respectfully submitted,

Ratner Prestia

  
Lawrence E. Ashery, Reg. No. 34,515  
Attorney for Applicants

LEA/dlm  
Enclosures: Notice of Abandonment  
Corrected drawing (Figure 6)

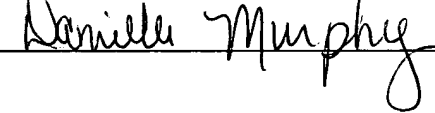
Dated: February 19, 2004

P.O. Box 980  
Valley Forge, PA 19482-0980  
(610) 407-0700

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**February 19, 2004**

  
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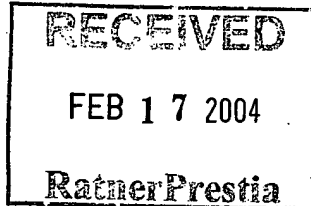


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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,534	11/28/2001	Noriyoshi Nishiyama	MAT-7941US1	6235

7590 02/10/2004  
Ratner & Prestia  
P.O. Box 980  
Valley Forge, PA 19482



EXAMINER

MULLINS, BURTON S

ART UNIT	PAPER NUMBER
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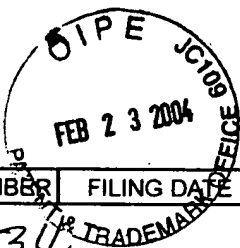
2834

DATE MAILED: 02/10/2004

*File Retention  
4/10/04  
ALB*

Please find below and/or attached an Office communication concerning this application or proceeding.

COPY



UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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09/998,534

EXAMINER
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ART UNIT	PAPER NUMBER
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DATE MAILED:

### NOTICE OF ABANDONMENT

This application is abandoned in view of:

- ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on \_\_\_\_\_.
- ☐ A reply (with Certificate of Mailing or Transmission of \_\_\_\_\_) was received on \_\_\_\_\_ which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
- ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
- ☐ A reply was received on \_\_\_\_\_, but it does not constitute a proper reply, or a *bona fide* attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in the last box below).
- ☐ No reply has been received.
- ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
- ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85)(or Notice of Publication Fee Due).
- ☐ The submitted fee of \$ \_\_\_\_\_ is insufficient. A balance of \$ \_\_\_\_\_ is due.  
The issue fee by 37 CFR 1.18 is \$ \_\_\_\_\_. The publication fee, if required, by 37 CFR 1.18(d) is \$ \_\_\_\_\_.
- ☐ The issue fee and publication fee, if applicable, have not been received.
- ☒ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTOL-37).
- ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
- ☒ No corrected drawings have been received.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interferences rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☐ The reason(s) below: \_\_\_\_\_

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

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**Respond to the Notice of Abandonment by one of the following:**

**Petition To Withdraw Holding of Abandonment (See MPEP 711.03(c) I) and 37 CFR § 1.181) No fee required**

Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR § 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action. Any petition under 37 CFR § 1.181, to withdraw the holding of abandonment not filed within 2 months of the mail date of a Notice of Abandonment may be dismissed as untimely under 37 CFR § 1.181(f).

In order for a petition to be granted, the evidence must be sufficient according to one of the following standards:

- 37 CFR § 1.8(b) Certificate of Mailing
- 37 CFR § 1.10 "Express Mail" mailing
- MPEP 503 Postcard Receipt as Prima Facie Evidence

Petition To Withdraw Holding Of Abandonment should be addressed as follows:

By mail: Commissioner For Patents, P.O. Box 1450, Mail Stop: Issue Fee, Alexandria, VA 22313-1450

By facsimile: 703-305-8755 or 703-305-4372

**Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action (See MPEP 711.03(c) II). No fee required**

Where an applicant contends that the original Notice of Allowance and Issue Fee Due was never received. If adequately supported, the Office may grant the petition and reissue the Office action. The showing required establishing non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petition should be addressed to the Technology Center handling the application as follows:

By mail: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450  
(Mark attention of a particular office or individual)

By facsimile: Technology Center numbers posted at <http://www.uspto.gov/september1/faxnotice.htm>

**Petition To Revive An Abandoned Application (See MPEP 711.03(c) III)**

Where there is no dispute as to whether an application is abandoned (e.g. the applicant's contentions merely involve the cause of abandonment) a petition under 37 CFR § 1.137 (a) unavoidable or (b) unintentionally (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

Petitions under 37 CFR § 1.137 should be addressed to the Office of Petitions as follows:

By mail: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450

By hand: Crystal Plaza 4, Rm. 3C23, 2201 Clark Place, Arlington, VA

By facsimile: 703-308-6916

Petition For Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR § 1.137(a) and Unintentionally Under 37 CFR 1.137(b), forms available at USPTO website – <http://www.uspto.gov>

**Note:** Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment.



# COPY

Date: MAY 16, 2003

Commissioner for Patents:

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FILE NO.: MAT MTS 7941US1 FEE DUE? YES or NO AMT. ENC'D. \$

NAME: NISHIYAMA ET AL.

- |   |   |
|---|---|
| <input type="checkbox"/> Specification (_____ pp.)                      | <input type="checkbox"/> Drawing(s) (____/____ pp.)         |
| <input type="checkbox"/> IDS & PTO 1449 (_____ pp.)                     | <input type="checkbox"/> Copy of _____ Reference(s)         |
| <input type="checkbox"/> Copy of Search Report                          | <input type="checkbox"/> Form 1390                          |
| <input type="checkbox"/> Claim to Right of Priority                     | <input type="checkbox"/> Priority Document(s) _____         |
| <input type="checkbox"/> Response to Missing Parts                      | <input type="checkbox"/> Copy of Formalities Letter         |
| <input type="checkbox"/> Declaration & POA (_____ pp)                   | <input type="checkbox"/> Certificate of Express Mailing     |
| <input type="checkbox"/> Petition for Ext. of Time (____ mo.)           | <input type="checkbox"/> Assignment & Form 1595 (_____ pp.) |
| <input type="checkbox"/> Utility Transmittal                            | <input type="checkbox"/> Fee Transmittal                    |
| <input checked="" type="checkbox"/> Amendment/Response ( <u>11</u> pp.) | <input type="checkbox"/> Preliminary Amendment (_____ pp.)  |
| <input type="checkbox"/> Issue Fee/Publication Fee                      | <input checked="" type="checkbox"/> Transmittal Form        |
| <input type="checkbox"/> _____  | <input type="checkbox"/> _____                              |

Serial No.: 09/998,534

